

# **Merchant Marine Personnel Advisory Committee (MERPAC)**

## **Bylaws**

### **ARTICLE I            AUTHORITY**

The Secretary of Homeland Security has established the Merchant Marine Personnel Advisory Committee (MERPAC) under the authority Section 871 of the Homeland Security Act of 2002, Title 6 U.S.C., and section 451. The committee shall operate in accordance with the provisions of the *Federal Advisory Committee Act (FACA)* (5 United States Code, Appendix).

### **ARTICLE II            PURPOSE**

MERPAC provides advice and recommendations to the Secretary of the Department of Homeland Security through the Director of Commercial Regulations and Standards (CG-5PS), United States Coast Guard and the Commandant of the Coast Guard (hereinafter, "Sponsor").

MERPAC will act solely in an advisory capacity on matters relating to personnel in the U.S. merchant marine, including but not limited to training, qualifications, certification, documentation, and fitness standards. The Committee will advise, consult with, and make recommendations reflecting its independent judgment to the Secretary.

### **ARTICLE III            MEMBERSHIP AND MEMBER RESPONSIBILITIES**

Section 1.      Composition. The Committee shall consist of not more than nineteen (19) members who are appointed by and serve at the pleasure of the Secretary of Homeland Security. In the event MERPAC terminates, all appointments to the Committee terminate. To assure a balanced representation, members shall be chosen, insofar as practicable, from the following groups:

a.      Nine active U.S. merchant mariners, including:

(1) Three deck officers who represent the viewpoint of merchant marine deck officers, two of whom shall be licensed for oceans any gross tons, one of whom shall be licensed for inland or river route with a limited or unlimited tonnage, two of whom must have a master's license or a master of towing vessels license, and one of whom must have significant tanker experience; and, to the extent practicable, one of these deck officers shall represent the point of view of labor and another shall represent a management perspective;

(2) Three engineering officers who represent the viewpoint of merchant marine engineering officers, two of whom shall be licensed as chief engineer any horsepower, one of whom shall be licensed as either a limited chief engineer or a designated duty engineer; and, to the extent practicable, one of these engineers shall represent a labor point of view and another shall represent a management perspective;

(3) Two unlicensed seamen, including one who represents the viewpoint of Able Bodied Seamen, and one who represents the viewpoint of Qualified Members of the Engine Department; and

(4) One Pilot who represents the viewpoint of merchant marine pilots.

b. Six Marine Educators, including:

(1) Three who represent the viewpoint of Maritime Academies, two of whom must represent the interests of State Maritime Academies, and one of whom may represent either the State Maritime Academies or the Federal Maritime Academy; and

(2) Three who represent the viewpoint of other maritime training institutions, one of whom shall represent the viewpoint of the small vessel industry.

c. Two individuals who represent the viewpoint of shipping companies employed in ship operation management.

d. Two members who represent the general public.

Section 2. Appointment. Members of MERPAC are appointed by and serve at the pleasure of the Secretary upon the recommendation of the Commandant of the Coast Guard. Appointments are personal to the member and cannot be transferred to another individual. Members may not designate someone to attend in their stead, participate in discussions, or vote.

Section 3. Terms of Office. Each member shall hold office for a term of up to three years, and the terms of approximately one-third of the membership shall expire each year. A member may continue to serve until a successor has been appointed and a member appointed to fill an unexpired term shall serve the remainder of that term. In the event MERPAC's charter is terminated, all appointments to the Committee shall terminate.

Section 4. Certification of Non-Lobbyist Status. All members of MERPAC must annually self-certify that they are not registered lobbyists under the *Lobbying Disclosure Act*, 2 United States Code, section 1603, and must advise the Department of Homeland Security (DHS) if they register as a lobbyist while serving on MERPAC. Members who register as a lobbyist after their appointment or re-appointment will be replaced on the committee. Candidates for appointment must self-certify that they are not registered lobbyists under the *Lobbying Disclosure Act*. The Designated Federal Officer (DFO) will assure that candidates for appointment are not lobbyists registered under the *Lobbying Disclosure Act*.

Section 5. Members' Responsibilities. Because the membership of MERPAC is constructed to balance as many aspects and viewpoints of the industry as possible, member attendance and participation at meetings is vital. Members are expected to



personally attend and participate at committee meetings. The Commandant of the Coast Guard shall recommend to the Secretary that any member who is unable to fulfill their responsibility be replaced on the Committee.

Members of MERPAC may be recommended for removal for reasons such as, but not limited to:

- a. Missing two consecutive meetings, or not participating in the committee's work;
- b. Registering as a lobbyist after appointment; or
- c. Engaging in activities that are illegal or violate the restrictions on members' activities as outlined below.

#### Section 6. Restriction on Members' Activities.

- a. Members may not use their access to the Federal Government as a member of this committee for the purpose of soliciting business or otherwise seeking economic advantage for themselves or their companies. Members may not use any non-public information obtained in the course of their duties as a member for personal gain or for that of their company or employer. Members must hold any non-public information in confidence.
- b. The Committee as a whole may advise the agency on legislation or recommend legislative action. In their capacities as members of MERPAC, individual members may not petition or lobby Congress for or against particular legislation or encourage others to do so.
- c. Members of MERPAC are advisors to the agency and have no authority to speak for the Committee, the U.S. Coast Guard or for the Department outside the Committee structure.
- d. Members may not testify before Congress in their capacity as a member of MERPAC. If requested to testify before Congress, members of MERPAC:
  1. Cannot represent or speak for the Committee, DHS, any agency, or the Administration in their testimony;
  2. Cannot provide information or comment on Committee recommendations that are not yet publicly available;
  3. May state they are a member of the committee; and,
  4. May speak to their personal observations as to their service on the committee.
- e. If speaking outside the committee structure at other forums or meetings, the restrictions in section d. also apply.

### **ARTICLE IV        Officials**

Section 1. Chairperson and Vice-Chairperson. The Director of Commercial Regulations and Standards (CG-5PS) shall designate one of the members of the Committee as the Chair and one of the members as the Vice-Chair. The Vice-Chair will act as Chair in the absence or incapacity of the Chair, or in the event of a vacancy in the office of the Chair. The term of office of the Chair and Vice-Chair shall be the

same as their term of office as committee members, which is governed by Article III, section 3 of these bylaws.

In addition to chairing MERPAC meetings, the Chairperson shall assist the DFO (see Section 2 below) in developing meeting agendas and establishing Committee priorities. The Chairperson shall certify the accuracy of minutes within 90 days of the meeting to which they pertain.

- Section 2. Designated Federal Officer: The Designated Federal Officer (DFO) serves as the Department's agent for all matters related to MERPAC and is appointed by the Director of Commercial Regulations and Standards (CG-5PS). In accordance with the provisions of the FACA, the DFO or an Alternate DFO must:
- a. Approve or call meetings of the Committee and its subcommittees;
  - b. Approve agendas for Committee and subcommittee meetings; and,
  - c. Attend all meetings of the Committee, and adjourn those meetings when doing so is in the public interest;

The DFO or an Alternate DFO must attend all subcommittee and working group meetings, and adjourn those meetings when doing so is in the public interest.

In addition, the DFO is responsible for assuring administrative support functions are performed, including the following:

- a. Notifying members of the time and place of each meeting;
- b. Tracking all recommendations of the Committee;
- c. Maintaining the record of members' attendance;
- d. Preparing the minutes, as required, of all Committee meetings;
- e. Attending to official correspondence;
- f. Maintaining official records and filing all papers and submissions prepared for or by the Committee, including those items generated by subcommittees and working groups;
- g. Reviewing and updating information on Committee activities in the Shared Management System (aka, FACA database) on a monthly basis;
- h. Acting as the Committee's agent to collect, validate and pay all vouchers for pre-approved expenditures; and
- i. Preparing and handling all reports, including the annual report as required by FACA.



## ARTICLE V MEETING PROCEDURES

Section 1. Meeting Schedule and Call of Meetings. Meetings of MERPAC may be held with the approval of the DFO. MERPAC shall meet at least once per year, but is expected to meet approximately twice per year, usually every six months. The DFO or an Alternate DFO must attend all committee, subcommittee and working group meetings. Committee meetings are open to the public unless a determination is made by the appropriate DHS official in accordance with DHS policy and directives that the meeting should be closed in accordance with Title 5, United States Code, subsection (c) of section 552b.

Section 2. Agenda. The DFO, in consultation with the Chairperson, shall develop and approve agendas for Committee and subcommittee meetings, distribute agendas to the members prior to the meeting, and publish the agenda in the *Federal Register* a minimum of 15 calendar days in advance of the meeting date.

Section 3. Quorum. A quorum of the MERPAC is 10 appointed Committee members. A quorum is required to vote on issues being addressed during a Committee meeting. The DFO will determine if a quorum exists at the beginning of each meeting of the MERPAC. If a quorum does not exist, the meeting may continue, but no action may be taken by the members present.

Section 4. Voting Procedures. A subcommittee or a working group may bring a proposed recommendation forward to the full Committee for review and approval. The Committee will discuss, review, amend as necessary, and vote as necessary upon the recommendation as a resolution at an official/public meeting. Only Committee members present at a meeting may vote on an item under consideration. No proxy votes will be allowed. All votes must be recorded in the minutes of the meeting.

Section 5. Minutes. The DFO will prepare the minutes of each meeting and distribute copies to each Committee member. Certified minutes of open meetings are available to the public at MERPAC's website (<http://homeport.uscg.mil/merpac>). Minutes of closed meetings will also be available to the public upon request subject to the withholding of matters about which public disclosure would be harmful to the interests of the Government, industry, or others, and which are exempt from disclosure under the *Freedom of Information Act*.

The minutes will include a record of:

- a. The time, date, and place of the meeting;
- b. A list of all attendees including members and staff;
- c. An accurate description of each matter discussed and the resolution, if any, made by the Committee;
- d. Copies of reports or other documents received, issued, or approved by the Committee; and

- e. An accurate description of public participation, including oral and written statements provided.

The DFO will ensure that the Chair certifies the minutes within 90 calendar days of the meeting to which they relate.

Section 6. Open Meetings. Unless otherwise determined in advance, all meetings of MERPAC shall be open and announced to the public in a notice published in the *Federal Register* at least 15 calendar days before the meeting. Members of the public may attend any meeting or portion of a meeting that is not closed to the public and may offer oral comment at such meeting. If meeting materials are not provided to the public prior to the meeting with sufficient time for the public to submit written comments, meetings will include a period for oral comments unless it is clearly inappropriate to do so. Members of the public may submit written statements to MERPAC at any time. All materials provided to the Committee shall be available to the public when they are provided to the members. Such materials, including any submissions by members of the public, are part of the meeting record.

Section 7 Closed Meetings. All or parts of meetings of MERPAC may be closed in limited circumstances and in accordance with applicable law. No meeting may be partially or fully closed unless the component head issues a written determination that there is justification for closure under the provisions of subsection (c) of 5 United States Code, 552b, the *Government in the Sunshine Act* (Sunshine Act). Where the DFO has determined in advance that discussions during a committee meeting will involve matters about which public disclosure would be harmful to the interests of the government, industry, or others, an advance notice of a closed meeting, citing the applicable exemptions of the *Government in the Sunshine Act*, will be published in the *Federal Register*. The notice may announce the closing of all or just part of a meeting. If, during the course of an open meeting, matters inappropriate for public disclosure arise during discussions, the DFO or Chairman will order such discussion to cease and will schedule it for a future meeting of the committee that will be approved for closure. No meeting or portion of a meeting may be closed without prior approval and notice published in the *Federal Register* at least 15 calendar days in advance. Closed meetings can only be attended by DFO, committee members, and necessary agency staff members. Presenters must leave immediately after giving their presentations and answering any questions.

## **ARTICLE VI EXPENSES AND REIMBURSEMENTS**

The Coast Guard, the Office of Operating and Environmental Standards (CG-OES) and its Maritime Personnel Qualifications Division (CG-OES-1) are responsible for providing financial support to MERPAC.



MERPAC members are not compensated for their services but, upon their request, may be reimbursed for travel expenses, subsistence, and accommodations as allowed by current regulations. All travel for MERPAC business must be approved in advance by the DFO.

## **ARTICLE VII        ADMINISTRATION**

The Coast Guard, the Office of Operating and Environmental Standards (CG-OES) and its Maritime Personnel Qualifications Division (CG-OES-1) are responsible for clerical and administrative support to MERPAC.

## **ARTICLE VIII       SUBCOMMITTEES**

The DFO may establish subcommittees for any purpose consistent with this charter. Such subcommittees may not work independently of the chartered committee and must report their recommendations and advice to MERPAC for full deliberation and discussion. Subcommittees have no authority to make decisions on behalf of MERPAC and may not report directly to the Federal government or any other entity. The Chair may designate members of the Committee and recommend to the DFO members of the public to serve on subcommittees or working groups. The subcommittee chair shall be a Committee member.

## **ARTICLE IX        RECORDKEEPING**

The DFO is responsible for maintaining all records of MERPAC, formally and informally established subcommittees, and other subgroups of the committee in accordance with General Records Schedule 26, Item 2 or other approved agency records disposition schedule. These records are available for public inspection and copying, in accordance with the *Freedom of Information Act* (Title 5, United States Code, section 552).

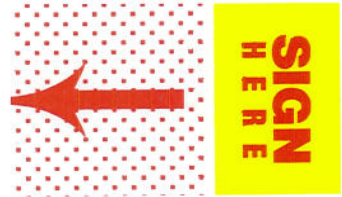
## **ARTICLE X         RECOMMENDATIONS AND REPORTING**

Proposed recommendations are presented in writing to the full MERPAC committee by a subcommittee. The Committee may decide, by a majority vote, to consider, amend, and/or vote upon a recommendation without assignment to a subcommittee. These recommendations are discussed, amended as necessary, and voted upon by the Committee in an open meeting. Upon approval by the Committee, they are presented in writing to the Coast Guard by the Committee Chairman. The Coast Guard tracks all MERPAC recommendations and advises the Committee of action taken on its recommendations at its regular semi-annual public meetings

## **ARTICLE XI        BYLAWS APPROVAL AND AMENDMENTS**

The DFO may amend these bylaws at any time, and the amendments shall become effective immediately upon approval.

Mayte Medina  
(Name)  
Designated Federal Officer



Date approved: May 17, 2012